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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Policy and Rules Concerning the)
Interstate, Interexchange Marketplace)
)
Implementation of Section 254(g) of the)
Communications Act of 1934, as amended)

CC Docket No. 96-61

COMMENTS OF SPRINT COMMUNICATIONS COMPANY L.P.

Sprint Communications Company L.P. ("Sprint") hereby respectfully submits its comments in the above-captioned proceeding in response to the *Public Notice* released May 9, 2000, DA 00-1028.

Under the terms of the Commission's *Second Report and Order* and the two decisions on reconsideration of that order issued in the above-captioned docket,¹ nondominant interexchange carriers ("IXCs") must remove their tariffs (with certain limited exceptions) governing their provision of interstate domestic services on or before January 31, 2001. In lieu of filing tariffs for such services, nondominant IXCs that maintain Internet sites will be required to post the rates, terms and conditions of their domestic service on such sites. In its *Public Notice*, the Commission outlines certain requirements to be followed by IXCs during the transition from tariff posting to Internet

¹ Policy and Rules Concerning the Interstate, Interexchange Marketplace, 11 FCC Rcd 20730 (1996) ("Detariffing Order"), Reconsideration Order, 12 FCC Rcd 15014 (1997), Second Order on Reconsideration, 14 FCC Rcd 6004 (1999), affirmed sub nom. MCI WorldCom Inc. et al. v. FCC, 2000 U.S. App. LEXIS 8267 (D.C. Cir. 2000)

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posting.² It also requests comments on possible modifications to such transitional requirements. Specifically, the Commission requests comments on (1) "whether permissive tariffing should be permitted during all or part of the nine-month transition period for bundled domestic and international service offerings"; and (2) "how quickly the IXCs that currently have Internet sites should be required to come into full compliance with the web posting requirement adopted in the Second Order on Reconsideration." *Public Notice* at 4. In addition, the Commission requests "comment on whether any other modifications should be made to the transition plan." *Id.* Sprint responds to these requests *seriatim*.

I. PERMISSIVE DETARIFFING FOR BUNDLED SERVICE OFFERINGS SHOULD BE PERMITTED DURING THE ENTIRE TRANSITION PERIOD.

During the transition period, carriers are prohibited from "filing new or revised interstate, domestic, interexchange tariffs for contract tariff offerings and other long-term service arrangements" and "arrangements that bundle domestic and international services." *Public Notice* at 2. Although the Commission does not explain the purpose of such prohibition, it has historically been concerned about the use of the filed rate doctrine by carriers to unilaterally alter contracts with their customers.

Sprint strongly urges the Commission to allow nondominant IXCs the ability to continue to file tariffs for their new and revised contracts and other long-term service

² The transition began on May 1, 2000 when the D.C. Circuit lifted its previously imposed stay of the *Detariffing Order*. Thus, IXCs have nine months in which to remove their domestic service tariffs on file with the FCC but ensure that the public will still have notice of their offerings through the Internet or by other means.

arrangements that bundle domestic and international services during the transition period. Any concerns about the ability of the IXC's to invoke the filed rate doctrine with respect to the domestic portion of such offerings can be eliminated by requiring them to include in their tariffs a provision stating that the rates, terms and conditions governing the provision of interstate services in any new or revised bundled contract tariff or long-term arrangement are being filed for informational purposes only and are not to be considered a tariff filed under Section 203 of the Act.

Permissive tariffing will provide potential customers a convenient way to obtain the most up-to-date versions of each IXC's contract tariffs and long-term service arrangements so that they can analyze the offerings of the various IXC's as they enter into negotiations with an IXC for their own contract or customized offering. Absent permissive tariffing, potential customers may not even know that a new or revised contract or long-term offering for domestic services exists. Although carriers will eventually be required to post the domestic portion of their contracts or long-term service arrangements on their Internet sites, the process of doing so is problematic. Indeed, given the numerous technical and manual tasks involved in developing a link to its tariffs from the home page on its Internet site, it is unlikely that Sprint will be able to meet the Internet tariff posting requirement significantly in advance of the date for detariffing of domestic services.

Moreover, even if carriers were able to quickly post the domestic portions of the their bundled domestic and international contracts on the Internet, there is no guarantee -- and there does not appear to be any Commission requirement -- that a potential customer be able to "match up" the domestic portion of the offering posted on the carrier's Internet

site with the international portion of such offering tariffed with the Commission. The requirement that the domestic and international piece parts of a bundled offering to be posted in two places will mean that the bundled offering cannot be determined. It effectively deprives the customer of the information that the customer is seeking, namely the entirety of the deal being offered by the IXC.³

As stated, the Commission's perceived concern about the filed rate doctrine can be addressed by requiring IXCs to include in their tariffs language which eliminates the IXC's ability to rely upon the filed rate doctrine for the domestic portion or their new or revised contract tariffs or long-term arrangements. For example, a banner could be placed on each tariff page that sets forth a new contract or long-term service arrangement which could state that

The rates, terms and conditions applicable to interstate services set forth in this new offering are being provided for informational purposes only and are not being filed pursuant to Section 203 of the Communications Act of 1934 as amended.

For revisions to existing contracts or other long-term service arrangements the banner

³ If contrary to Sprint's position here, the Commission decides to adopt the prohibition on filing the domestic portions of new or revised contract tariffs and long-term service arrangements, it must make clear that IXCs will be able to include in the international portion of the tariff filed with the Commission interstate usage as one of the services contributing to the minimum annual commitment (MUC) agreed to by the customer. Splitting the MUC into domestic and international components will eliminate bundled services where the customer has the flexibility to use any combination of domestic and international usage to reach the MUC. There is no reason to deny customers such flexibility. Moreover, attempting to break apart the MUC into its domestic and international components may be difficult, if not impossible, given the fact that customers want their Internet usage which is oblivious to international boundaries to contribute to the MUC.

could read as follows:

The revisions to the rates, terms and conditions applicable to interstate services in this existing offering filed after 5/1/00 and set forth below are being provided for informational purposes only and are not being filed pursuant to Section 203 of the Communications Act of 1934 as amended.

By incorporating this or similar language in their contract tariffs or their tariffs for other long-term service arrangements, IXC's will be unable to successfully invoke the filed rate doctrine in court to enforce tariffs that differ from the rates, terms and conditions for domestic service set forth in the underlying contracts agreed to by customers. At the same time permitting each IXC to continue to file the complete package in their tariffs will enable existing and potential customers to be informed of the entirety of each IXC's contracts or long-term arrangements offerings.

II. THE TIMEFRAME FOR POSTING INFORMATION ON INTERNET SITES SHOULD COINCIDE WITH THE REMOVAL OF INTERSTATE SERVICE FROM THE TARIFFS.

The Commission requests information about the ability of carriers to post their domestic offerings on Internet sites as they will be required to do with the advent of mandatory detariffing. As stated, establishing an Internet site that will set forth the critical service information that is currently in an IXC's tariffs cannot be easily accomplished. There are numerous tasks involved in setting up the site, and the larger the portfolio of service offerings, the more time will be required to develop the site as well as organize the material to placed on it.

First, the carrier must determine how much material will be included on the Internet site and how much capacity on a server will be required. Such requirements must be evaluated, a technically feasible solution developed, and equipment purchased if

necessary. The anticipated growth in the information must also be evaluated to determine whether existing capacity can be allocated or whether a new server will be required.

Second, establishing the Internet site will require a substantial amount of programming to structure it and to transfer information to it. In order to make it easy to access and to use, the site must be carefully planned. Modification to existing Internet sites may be needed to link them to the site incorporating the IXC's tariffs. Conversion of the massive amounts of information about the carrier's rates, terms and conditions of all of its existing interstate services will require program support. The amount and time of such programmers cannot be determined until other initial work is done. Finally, personnel must be trained to maintain the Internet site.

In light of the massive effort that will be required to establish an Internet site for the posting of the an IXC's domestic service offerings, Sprint believes that IXCs should only be required to meet such posting requirement when they remove their tariffs from the Commission. In the interim, customers will have access to information about an IXC's interstate rates through the tariffs (with the banner language suggested above for contract tariffs and other long-term service arrangements).

III. OTHER SUGGESTIONS

As of February 1, 2001, customers will no longer be able to look to a nondominant IXC's tariffs to learn of the entirety of a particular offering. Rather, such customers will have to look to an IXC's Internet site for the rates, terms and conditions applicable to the IXC's domestic offerings and to the IXC's tariffs for the rates, terms and conditions applicable to an IXC's international offerings. It may be difficult for customers to match the domestic offering with the proper international offering,

especially for individually negotiated deals that bundle both services. Such confusion can be minimized, if not eliminated, if the Commission were to require the mandatory detariffing of the international offerings of nondominant carriers.

Sprint believes that the rulemaking proceeding necessary to require mandatory detariffing of their international services by such IXC's can be completed expeditiously and certainly within the nine-month transition period. In light of the D.C. Circuit's opinion affirming the Commission's detariffing decisions, there can no longer be any serious debate that as to whether mandatory detariffing by nondominant IXC's is consistent with the Commission's forbearance authority under the Act or is in the public interest. With this precedent established, there is simply no impediment to the detariffing international services by international carriers.⁴

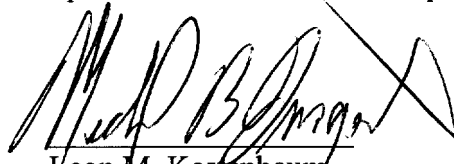
If the Commission does not believe that it can implement mandatory detariffing of the international services of nondominant carriers within the current transition period, Sprint recommends that the Commission extend the date by which such carriers are required to remove their domestic tariffs until the Commission is able to finish the rulemaking to require the detariffing of international services. Simultaneous detariffing of both domestic and international services will minimize customer confusion since the entirety of the carrier's offerings would be posted on the Internet. Moreover it would eliminate the applicability of disparate legal regimes to any offering that incorporates

⁴ Sprint assumes that mandatory detariffing of international services by international IXC's will be accompanied by the requirement that such IXC's post their international offerings on their web sites. Such requirement will enable the Commission to learn about the rates, terms and conditions of a nondominant IXC's international offerings.

both domestic and international services. And, it would eliminate the need for carriers to expend unnecessary resources -- resources that will have to be recovered from the end user -- to "break apart" their integrated interstate and international offerings so as to place the domestic portion of the services on the Internet and the international portion of the offering in tariffs on file with the Commission. Indeed, such resources would be wasted if, as seems logical, international services are to be detariffed in the near future.

Respectfully submitted,

Sprint Communications Company L.P.

A handwritten signature in black ink, appearing to read 'Leon M. Kestenbaum', written over a horizontal line.

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May 31, 2000

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **COMMENTS OF SPRINT COMMUNICATIONS COMPANY L.P.** was sent by hand or by United States first-class mail, postage prepaid, on this the 31st day of May, 2000 to the parties on the attached pages.


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